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To: Mail Stop AF
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From: Michael J. Cummings
Date: September 13, 2005
Subject: 10/675,362 (F-746)
Pages: 7 pages including cover sheet

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1. Pre-Appeal Brief Request for Review (5 pages)
2. Notice of Appeal for Application No. 10/675,362 (F-746) (1 page).

on September 13, 2005
Date of Transmission

Marlene Massop
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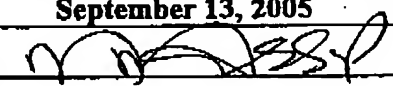

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) R-746	
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		First Named Inventor John P. Miller, et al.	
		Art. Unit 2854	Examiner Ferguson, M. L.
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the		 Signature	
<input type="checkbox"/> applicant/inventor.		Michael J. Cummings Typed or printed name	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/56)			
<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>46,650</u>		<u>203-924- 9394</u> Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>September 13, 2005</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
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Appln. No.: 10/675,362

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application:

Appl. No.	:	10/675,362	Confirmation No.:	5976
Applicant	:	John P. Miller, et al.		
Filed	:	September 30, 2003		
Art Unit	:	2854		
Examiner	:	Ferguson, M.L.		
Attorney Docket No.	:	F-746		
Customer No.	:	00919	Date:	September 13, 2005

**METHOD AND APPARATUS FOR CONTINUOUS HIGH SPEED DIGITAL METERING
USING MULTIPLE PRINT HEADS****PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants request this pre-appeal review to consider clear errors in the Examiner's rejections of independent claims 1 and 11. These errors include omissions of one or more essential elements needed for a prima facie rejection. Claims 1, 7, 9-11, 17, 19, and 20 are pending in this application. A Notice of Appeal is filed herewith.

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§103 Rejections

Claims 1, 7, 9-11, 19 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,361,163 to Fowlkes ("Fowlkes") in view of U.S. Patent 5,829,895 to Hayashi ("Hayashi").

Applicants traverse this rejection because the asserted references, alone or together, do not disclose or suggest all of the features recited in the rejected independent claims claims 1 and 11. In particular, the references do not include a description or suggestion of periodically switching between two print heads during a maintenance operation in order to maintain continuous high speed processing. Even if for purposes of this review it is assumed the two asserted references may be combined, the combination still fails to describe or suggest all of the claimed features.

The features missing from the asserted combination of Fowlkes and Hayashi are:

from claim 1:

a controller controlling a first one of the upstream or downstream print heads to print postage indicia on transported mail pieces traveling at a print velocity, the controller further switching to a second of the upstream or downstream print heads when the first one undergoes a periodic ink jet maintenance operation; wherein the controller periodically takes the print head that is in use out of service to perform maintenance operations

from claim 11:

periodically removing the print head that is in use out of service and performing maintenance operations on the print head, the maintenance operations comprising a print head wipe or a print head purge;

switching to a second of the upstream or downstream print heads for printing when the first one is removed for maintenance operations; and

returning the print head removed from service back into service after performing the maintenance operations.

Typically, the maintenance operations, of the type recited in the claims, only need to be done after hundreds, or thousands of print operations, and only take a few seconds. (See specification, pages 4-5). Accordingly, for slower, low volume, systems such as

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described in Fowlkes or Hayashi, the maintenance operations can be performed at start-up, between jobs, or so rarely that they are of little inconvenience. It is only at higher speeds, and continuous operation of a large mail processing system that the limitations become important, and potentially preclude operation at desired speeds and throughputs. (Id.)

A combination of Fowlkes and Hayashi, as asserted by the Examiner, would result in a system that could have two print heads. But that system control switching of the print heads differently than claimed in claims 1 and 11. The asserted combination could switch from using one print head to the other print head based on the following circumstances: (1) when a different receiver medium is desired to be printed on and (2) when one print head malfunctions.

This is in contrast to the claimed system and method where switching is based on a "periodic ink jet maintenance operation." By having both print heads available, continuous high speed, high throughput processing can be achieved. Unlike the asserted references, in the claimed system "subsequent to a maintenance operation the first print head is in a condition to return to service." There is still no teaching or suggestion in the asserted references that switching between print heads is triggered by the maintenance operations. The reason is that neither Fowlkes nor Hayashi address the needs of a "continuous high velocity mail piece processing system" as recited in the preamble of claim 1, and in those asserted references maintenance operations are a non-factor.

Contrary to some of the Examiner's assertions, a malfunction, as described in Fowlkes, does not satisfy the "maintenance operation" limitations. The following are some reasons why: (1) The specification for the present invention defines what maintenance operations are on pages 4 and 5, and they clearly are different than malfunctions.; (2) maintenance operations are "periodic," as recited in the claims, unlike a malfunction; and (3) a malfunctioning print head cannot perform the step of "returning the print head removed from service back into service after performing the maintenance operations" (claim 11).

Accordingly, it is respectfully submitted that independent claims 1 and 11 dependent claims 9 and 19, along with their dependent claims 7, 10-11, 17 and 20 should be found allowable in view of these arguments presented above.

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In view of these errors, it is requested that the pending rejections be withdrawn and that the pending claims be allowed.

Respectfully submitted,



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on September 13, 2005
Date of Deposit

Marlene Massop
Name


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September 13, 2005
Date